

To: Tom Hagler/R9/USEPA/US@EPA[]
From: "Obegi, Doug"
Sent: Fri 9/4/2009 10:06:28 PM
Subject: FW: Copy of letter to Governor?
[RealTimeGovernance Draft 7.16.09draft.doc](#)
letty_belin@ios.doi.gov

FYI

From: Obegi, Doug
Sent: Friday, September 04, 2009 2:47 PM
To: 'Letty_Belin@ios.doi.gov'
Cc: Hal Candee (external)
Subject: Re: Copy of letter to Governor?

Letty –

Thank you for sending me a copy of the letter, and for y'all doing such a good job on the letter. I really am grateful for the defense of the BOs and for the forceful rejection of the argument that the ESA is responsible for every woe in the Valley. As you can imagine, I'm still nervous about the litigation implications of additional science reviews of the BO, but this broad language at least doesn't make any specific promises. You may have less flexibility as to the review after the Senator sends her letter to Hayes about the promises made last month in the Valley, and/or after the Interior Approps bill next week.

In addition to thanking you for the letter, I also wanted to give you the heads about the "fishmaster" proposal that Greg Thomas of Natural Heritage Institute is coming back to DC next week to pitch to DOI (see attached). This is a proposal that nearly all the other enviro groups in BDCP, as well as NRDC and many agency staff, strongly oppose and object to.

In essence, this proposal purports to guarantee the contractors a certain water supply, thereby capping how much water can be "lost" to pumping restrictions, regardless of the impacts to species. So if the agencies go over budget early in the year, as a result of hydrodynamic conditions and the location of species near the pumps, the fish agencies will have to relax protections later in the year.

Such a proposal would be terrible policy, as many of your colleagues who lived through the past decade will attest: the Environmental Water Account on which this concept was based was a spectacular failure that led to massive increases in pumping, dramatic declines in species, and hundreds of millions of dollars of taxpayer money wasted. And in light of the Kempthorne decision, I believe such a proposal would violate section 7 of the ESA -- but no one wants to have to find out if it's illegal.

I just wanted to make sure you got the heads up that this idea is opposed by many of the members of the environmental community, and hear our concerns about it. Like other measures in BDCP to provide guarantees about water supply, independent of how the species are doing, this proposal should be viewed with great skepticism.

Take care, and thanks again,

Doug

From: Letty_Belin@ios.doi.gov
To: Obegi, Doug
Cc: Hal Candee (external)
Sent: Thu Sep 03 19:56:43 2009
Subject: Re: Copy of letter to Governor?

attached. We also sent in LTE to WSJ. We'll see what happens with that and with yours.

Letty Belin
Counselor to the Deputy Secretary
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202-208-6291

-----"Obegi, Doug" <dobegi@nrdc.org> wrote: -----

To: <Letty_Belin@ios.doi.gov>
From: "Obegi, Doug" <dobegi@nrdc.org>
Date: 09/03/2009 09:07PM
cc: "Hal Candee (external)" <hcandee@altshulerberzon.com>
Subject: Copy of letter to Governor?

Hi Letty –

Saw tonight's AP story on the letter from Salazar and Locke to the Governor. Can you email it to me tomorrow?
I'm reserving judgment until I read it.

Thanks,

Doug

Doug Obegi

Staff Attorney

Water Program

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